
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

UNITED STATES OF AMERICA

§

versus

§

CASE NO. 4:18-CR-46(25)

§

§

STEPHANIE CHRISTINE HUGHES

§

MEMORANDUM AND ORDER

Pending before the court is Defendant Stephanie Christine Hughes's ("Hughes") *pro se* Motion for Reconsideration 18 U.S.C. § 3742(e) Post-Sentencing Rehabilitation Programming (#1203), wherein Hughes requests once again that the court reduce her sentence, this time due to her post-conviction rehabilitation. The Government filed a response in opposition (#1204). After conducting an investigation, United States Probation and Pretrial Services ("Probation") prepared a report. Having considered the motion, the Government's response, Probation's report, and the applicable law, the court is of the opinion that the motion should be denied.

I. Background

On November 15, 2018, a federal grand jury in the Eastern District of Texas returned a three-count Fourth Superseding Indictment charging Hughes and twenty-nine (29) codefendants with participating in a Conspiracy to Possess with Intent to Manufacture and Distribute 500 grams or more of Methamphetamine or 50 grams of more of Methamphetamine (Actual), in violation of 21 U.S.C. § 846. On May 2, 2019, Hughes pleaded guilty to Count One of the Fourth Superseding Indictment pursuant to a non-binding plea agreement. On September 13, 2019, the court sentenced Hughes to 235 months' imprisonment, followed by a 5-year term of supervised release. Hughes previously moved for compassionate release on May 4, 2020, relying on her alleged need to care for her children and other family members, including her father. An

investigation by Probation revealed that all her family members were receiving appropriate care in her absence, and the court denied her motion on July 15, 2020 (#1068). Also on July 15, 2020, Hughes filed a second motion for sentence reduction based on her family circumstances, medical condition, and the threat of Coronavirus Disease 2019 (“COVID-19”). The court denied this motion on August 14, 2020 (#1093). Hughes is currently housed at Federal Medical Center Carswell in Fort Worth, Texas. Her projected release date is February 3, 2035.

As the Government points out, Hughes currently requests a sentence reduction pursuant to 18 U.S.C. § 3742(e). This statute and the case law Hughes references, however, address the review of a sentence on appeal, which is not the case here. Thus, the court will analyze her Motion to Reduce Sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i).

II. Analysis

On December 21, 2018, former President Trump signed the First Step Act of 2018 into law. *See* First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. The Act, in part, amended 18 U.S.C. § 3582(c), which gives the court discretion, in certain circumstances, to reduce a defendant’s term of imprisonment:

(A) the court, upon motion of the Director of the Bureau of Prisons (“BOP”), or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the [BOP] to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that—

(i) extraordinary and compelling reasons warrant such a reduction; or

(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the [BOP] that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);

and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission

18 U.S.C. § 3582(c)(1)(A). This provision is commonly referred to as “compassionate release.”

A. Exhaustion of Administrative Remedies

Prior to the First Step Act, only the Director of the BOP could file a motion seeking compassionate release. *See United States v. Franco*, 973 F.3d 465, 467 (5th Cir. 2020) (“Prior to the passage of the First Step Act . . . courts lacked the power to adjudicate motions for compassionate release.”), *cert. denied*, 141 S. Ct. 920 (2020); *Tuozzo v. Shartle*, No. 13-4897, 2014 WL 806450, at *2 (D.N.J. Feb. 27, 2014) (denying petitioner’s motion for compassionate release because no motion for his release was filed by the BOP). The First Step Act amended § 3582(c) by providing a defendant the means to appeal the BOP’s decision not to file a motion for compassionate release on the defendant’s behalf. *United States v. Cantu*, 423 F. Supp. 3d 345, 347 (S.D. Tex. 2019); *United States v. Bell*, No. 3:93-CR-302-M, 2019 WL 1531859, at *1 (N.D. Tex. Apr. 9, 2019). The plain language of the statute, however, makes it clear that the court may not grant a defendant’s motion for compassionate release unless the defendant has complied with the administrative exhaustion requirement. 18 U.S.C. § 3582(c)(1)(A); *United States v. Garrett*, 15 F.4th 335, 337 (5th Cir. 2021) (“[T]o file a proper motion for compassionate release in the district court, a prisoner must first exhaust the available administrative avenues.”); *Franco*, 973 F.3d at 467 (holding that the statutory requirement that a defendant file a request with

the BOP before filing a motion for compassionate release in federal court “is *not* jurisdictional but that it *is* mandatory”); *United States v. Alam*, 960 F.3d 831, 833 (6th Cir. 2020) (“Even though [the] exhaustion requirement does not implicate [the court’s] subject-matter jurisdiction, it remains a mandatory condition.”); *United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020) (“[T]he exhaustion requirement . . . presents a glaring roadblock foreclosing compassionate release.”). Thus, before seeking relief from the court, a defendant must first submit a request to the warden of her facility to move for compassionate release on her behalf and then either exhaust her administrative remedies or wait for the lapse of 30 days after the warden received the request. 18 U.S.C. § 3582(c)(1)(A); *Garrett*, 15 F. 4th at 338 (“[A]n inmate has two routes by which he may exhaust his administrative remedies. Both begin with ‘requesting that the [BOP] bring a motion on the defendant’s behalf.’” (quoting *Franco*, 973 F.3d at 467)); *United States v. Harris*, 812 F. App’x 106, 107 (3d Cir. 2020); *United States v. Springer*, 820 F. App’x 788, 791 (10th Cir. 2020) (defendant “was required to request that the BOP file a compassionate-release motion on his behalf to initiate his administrative remedies” (citing *Raia*, 954 F.3d at 595)); *Alam*, 960 F.3d at 833-34; *United States v. Soliz*, No. 2:16-190-3, 2020 WL 2500127, at *3 (S.D. Tex. May 14, 2020) (“§ 3582(c)(1)(A) does not provide this Court with the equitable authority to excuse [defendant’s] failure to exhaust his administrative remedies or to waive the 30-day waiting period.” (quoting *United States v. Reeves*, No. 18-00294, 2020 WL 1816496, at *2 (W.D. La. Apr. 9, 2020))).

In this instance, Hughes is foreclosed from obtaining relief because she has made no showing that she submitted a request for compassionate release based on the circumstances raised in the pending motion, rehabilitation programming, to the warden of the facility where she is

housed. *United States v. Dodd*, No. 4:13-CR-182-SDJ, 2020 WL 7396527, at *2 (E.D. Tex. Dec. 17, 2020) (stating that “[i]n order to exhaust her administrative remedies, a prisoner must first present to the BOP the same grounds warranting release that the prisoner urges in her motion”). *See Franco*, 973 F.3d at 468 (“Congress has commanded that a ‘court *may not* modify a term of imprisonment’ if a defendant has not filed a request with the BOP.”); *Alam*, 960 F.3d at 832 (“[B]ecause this exhaustion requirement serves valuable purposes (there is no other way to ensure an orderly processing of applications for early release) and because it is mandatory (there is no exception for some compassionate-release requests over others), we must enforce it.”); *United States v. Garcia*, No. CR 2:18-1337, 2020 WL 3000528, at *3 (S.D. Tex. June 2, 2020) (“While the Court sympathizes with Defendant’s plight, because he has failed to comply with the exhaustion requirements under § 3582, his motion is not ripe for review, and the Court is without jurisdiction to grant it.”); *United States v. Garcia-Mora*, No. CR 18-00290-01, 2020 WL 2404912, at *2 (W.D. La. May 12, 2020) (“Section 3582(c)(1)(A) does not provide [the court] with the equitable authority to excuse [the defendant’s] failure to exhaust his administrative remedies or to waive the 30-day waiting period.”); *United States v. Collins*, No. CR 04-50170-04, 2020 WL 1929844, at *2 (W.D. La. Apr. 20, 2020); *see also Ross v. Blake*, 578 U.S. 632, 639 (2016) (“[J]udge-made exhaustion doctrines . . . remain amenable to judge-made exceptions,” whereas “mandatory exhaustion statutes . . . establish mandatory exhaustion regimes, foreclosing judicial discretion.”). Accordingly, at this time, the court does not have the authority to grant the relief Hughes requests. Moreover, even if Hughes had complied with the exhaustion requirement before filing the instant motion, nothing in her motion indicates that extraordinary and compelling reasons exist to reduce her sentence.

B. Criteria for Release

The United States Court of Appeals for the Fifth Circuit has held that when a defendant moves for compassionate release, she must establish three criteria. *United States v. Shkambi*, 993 F.3d 388, 392 (5th Cir. 2021). First, she must meet one of two conditions listed in § 3582(c)(1)(A)—either the defendant has extraordinary and compelling reasons that warrant a reduction under 18 U.S.C. § 3582(c)(1)(A)(i) or the defendant is at least 70 years of age, has served at least 30 years in prison, and meets the additional requirements of 18 U.S.C. § 3582(c)(1)(A)(ii). *Id.* at 391. Second, the defendant “must show that compassionate release is consistent with the applicable policy statements from the [United States Sentencing Commission (“Commission”)].” *Id.* at 392. Third, the defendant “must convince the district judge to exercise discretion to grant the motion after considering the § 3553(a) factors.”¹ *Id.*; accord *United States v. Keys*, 846 F. App’x 275, 276 (5th Cir.), *cert. denied*, 142 S. Ct. 299 (2021); *United States v. Cooper*, 996 F.3d 283, 287 (5th Cir. 2021).

Section 3582(c)(1)(A)(i) does not define the “extraordinary and compelling reasons” that may merit compassionate release. Rather, Congress elected to delegate its authority to the Commission. *See* 28 U.S.C. § 994(t) (directing the Commission to “describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to

¹ Section 3553(a) directs courts to consider: the nature and circumstances of the offense and the defendant’s history and characteristics; the need to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; the need to deter criminal conduct; the need to protect the public; the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; the kinds of sentences and sentencing ranges established for defendants with similar characteristics under applicable United States Sentencing Guideline (“U.S.S.G.”) provisions and policy statements; any pertinent policy statement of the Commission in effect on the date of sentencing; the need to avoid unwarranted disparities among similar defendants; and the need to provide restitution to the victim. 18 U.S.C. § 3553(a).

be applied and a list of specific examples”); *Cooper*, 996 F.3d at 287; *Shkambi*, 993 F.3d at 392. Prior to the passage of the First Step Act, the Commission issued a policy statement set forth in U.S.S.G. § 1B1.13, which, along with its commentary, describes what reasons qualify as extraordinary and compelling.² However, § 1B1.13 references only motions filed by “the Director of the [BOP]”—not an individual defendant.³ Consequently, the Fifth Circuit has held that when a defendant files a motion for compassionate release on her own behalf, the Commission’s policy statement set forth in § 1B1.13 is not applicable because that policy statement governs only motions filed by the Director of the BOP. *See Cooper*, 996 F.3d at 287-88; *Shkambi*, 993 F.3d at 392.

Nevertheless, while recognizing that they are not binding, the court views the Commission’s policy statement contained in § 1B1.13 and the commentary thereto as providing guidance regarding the types of reasons that may be deemed sufficiently “extraordinary and compelling” to warrant compassionate release. *See United States v. Thompson*, 984 F.3d 431, 433 (5th Cir.) (“Although not dispositive, the commentary to § 1B1.13 informs [the court’s] analysis as to what reasons may be sufficiently ‘extraordinary and compelling’ to merit compassionate release.”), *cert. denied*, 141 S. Ct. 2688 (2021); *United States v. Rivas*, 833 F. App’x 556, 558

² In Application Note 1 to § 1B1.13 of the U.S.S.G., the Commission defined “extraordinary and compelling reasons” to include the following four categories of circumstances: (i) certain medical conditions of the defendant; (ii) the defendant is 65 years or older and meets other requirements; (iii) the defendant’s family has specified needs for a caregiver; and (iv) other reasons in the defendant’s case that establish an extraordinary and compelling reason. U.S.S.G. § 1B1.13 cmt. n.1.

³ U.S.S.G. § 1B1.13 was last amended on November 1, 2018. The Commission has, to date, been unable to amend § 1B1.13 to incorporate the changes wrought by the First Step Act due to the lack of a quorum. The Commission consists of seven voting members and, per statute, requires four members for a quorum to amend the guidelines. 28 U.S.C. §§ 991(a), 994(a). At present, the Commission has only one voting member.

(5th Cir. 2020) (upholding denial of compassionate release and recognizing that the court was guided in its analysis by the commentary to U.S.S.G. § 1B1.13). A review of dictionary definitions also sheds light on the meaning of these terms. The word “extraordinary” is defined as “going beyond what is usual, regular, or customary . . . exceptional to a very marked extent,” whereas the word “compelling” is defined as “forceful . . . demanding attention . . . convincing.” *Extraordinary*, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (11th ed. 2007); *Compelling*, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY (11th ed. 2007); see *United States v. Mitchell*, No. 15-20609, 2021 WL 1827202, at *2 (E.D. Mich. May 7, 2021). “Courts have interpreted ‘extraordinary’ in the context of compassionate release as ‘beyond what is usual, customary, regular, or common,’ and a ‘compelling reason’ as ‘one so great that irreparable harm or injustice would result if the relief is not granted.’” *Mitchell*, 2021 WL 1827202, at *2 (quoting *United States v. Murphy*, No. 15-20411, 2020 WL 2507619, at *5 (E.D. Mich. May 15, 2020); *United States v. Sapp*, No. 14-20520, 2020 WL 515935, at *3 (E.D. Mich. Jan. 31, 2020)).

1. Rehabilitation

Hughes maintains that her post-sentence rehabilitation, evidenced by the programs she has completed and the certificates she has earned, establishes extraordinary and compelling reasons for compassionate release. While the court may consider rehabilitation efforts, “[r]ehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.” 28 U.S.C. § 994(t); see *Shkambi*, 993 F.3d at 392; *United States v. Brooker*, 976 F.3d 228, 237-38 (2d Cir. 2020) (holding that a district court’s discretion in sentencing is broad; however, there is a “statutory limit on what a court may consider to be extraordinary and compelling . . . [and] ‘[r]ehabilitation . . . alone shall not be considered an extraordinary and compelling reason.’”

(quoting 28 U.S.C. § 994(t)); *United States v. Hudec*, No. CR 4:91-1-1, 2020 WL 4925675, at *5 (S.D. Tex. Aug. 19, 2020) (“While the Court is permitted to consider post-sentencing rehabilitation in determining whether to grant an eligible defendant a sentence reduction, it is not authorized to grant a reduction based upon post-sentencing rehabilitation alone.”); *cf. United States v. Whitehead*, 986 F.3d 547, 551 (5th Cir. 2021) (upholding the denial of a sentence reduction from a life sentence and finding that the court may, but is not required, to consider a defendant’s post-conviction rehabilitative efforts when evaluating a motion for reduction under § 404 of the First Step Act). In fact, “[m]aking good use of one’s time in prison is not uncommon, and indeed is expected.” *United States v. Blanco*, No. 16-CR-408 (CS), 2021 WL 706981, at *2 (S.D.N.Y. Feb. 22, 2021) (quoting *United States v. Alvarez*, No. 89-CR-229, 2020 WL 4904586, at *7 (E.D.N.Y. Aug. 20, 2020)). While Hughes has maintained a good disciplinary record while incarcerated, the Seventh Circuit has found a similar argument not to be extraordinary and compelling. *See United States v. Ugbah*, 4 F.4th 595, 597 (7th Cir. 2021) (rejecting compassionate release of a prisoner reasoning that “[m]ost nonviolent criminals maintain good disciplinary records”).

Thus, although Hughes lists a number of commendable achievements, she has not presented sufficiently extraordinary and compelling accomplishments or circumstances to merit compassionate release under the facts of this case. *See United States v. Lewis*, No. 17-CR-28-FPG, 2021 WL 4519795, at *3 (W.D.N.Y. Oct. 4, 2021) (finding defendant’s efforts at rehabilitation and plans to start a new life elsewhere to be commendable and recognizing the unusual burdens he faced in prison but finding those considerations not to undermine the factors that led to his original sentence—his offense, his criminal history, and the need for deterrence);

United States v. Boyd, No. 3:17-CR-37-TAV-DCP-4, 2021 WL 5094903, at *4 (E.D. Tenn. Nov. 2, 2021) (the court, while recognizing defendant's efforts to improve himself, did not find his rehabilitation efforts to be so extraordinary as to outweigh the other sentencing factors); *United States v. Willsey*, No. 3:00-cr-00438-HZ, 2021 WL 4462889, at *2 (D. Ore. Sept. 28, 2021) (although finding defendant's steps toward rehabilitation to be laudable, the court ruled that they did not present an extraordinary circumstance that would justify compassionate release, particularly given the seriousness of his offenses of conviction); *United States v. Rounds*, No. 10-CR-239S (2), 2021 WL 4437170, at *4 (W.D.N.Y. Sept. 28, 2021) (commenting that defendant's efforts at rehabilitating himself were laudable and should be continued, but concluding that they did not alone or in combination with his other arguments constitute an extraordinary and compelling reason for compassionate release). Similarly, the court hopes that Hughes will continue on the path to rehabilitation, but declines to exercise its discretionary authority under § 3582 at this time based on her rehabilitation efforts. *See Lewis*, 2021 WL 4519795, at *3.

2. Section 3553(a) Factors

The court further finds that compassionate release is not merited in light of the applicable factors set forth in 18 U.S.C. § 3553(a). *See* 18 U.S.C. § 3582(c)(1)(A) (requiring courts to consider the § 3553(a) factors before granting compassionate release); *United States v. Shorter*, 850 F. App'x 327, 328 (5th Cir. 2021) (finding that the court did not abuse its discretion in denying compassionate release after balancing the § 3553(a) factors); *Keys*, 846 F. App'x at 276; *Shkambi*, 993 F.3d at 392; *Thompson*, 984 F.3d at 435 n.11 (collecting cases); *Chambliss*, 948 F.3d at 693-94.

Hughes's offense of conviction entails her participation in a large scale, international drug trafficking conspiracy involving a Mexican drug cartel in which she was held responsible for distributing between 15 and 45 kilograms of a mixture or substance containing a detectable amount of methamphetamine or between 1.5 and 4.5 kilograms of methamphetamine (actual). Hughes's role in the offense was to supply coconspirators with kilogram quantities of methamphetamine from various sources, which was imported from Mexico, for further distribution to others in the Eastern and Northern Districts of Texas. She was found to be in possession of 2 bags containing 42.44 grams of methamphetamine concealed in her pants at the time of her arrest. Hughes's criminal history includes prior convictions for possession of a controlled substance (methamphetamine), aggravated driving under the influence, failure to identify (2), organized retail theft, possession of drug paraphernalia (2), driving without a license (2), and possession of a controlled substance (hydrocodone). She failed to comply with previous terms of probation, used both marijuana and methamphetamine on a daily basis until her arrest, and admitted in a previous motion to having a history of substance abuse. In *Boyd*, the defendant had a similar history of violating probation, including committing the offense of conviction while on probation. 2021 WL 5094903, at *3. The court found that "defendant's history of violating probation calls into question his respect for the law and whether he would abide by his conditions of supervised release in this case if his motion for compassionate release were granted." *Id.* This court shares the same concerns in reference to Hughes.

In addition, granting Hughes compassionate release would fail to provide just punishment for her offense and promote respect for the law. In *Chambliss*, the Fifth Circuit upheld the denial of compassionate release due to the defendant's not yet having served a sufficient portion of his

sentence. 948 F.3d 691, 694 (5th Cir. 2020). The district court determined that the defendant's terminal illness "constitut[ed] 'an extraordinary and compelling reason for a sentence reduction' and that he '[did] not present a danger upon release,'" but denied release because "releasing [the defendant] after serving only 14 years of a 30-year sentence minimizes both the impact of [the defendant's] crime and seriousness of the offense." *Id.* at 693-94. "Moreover, the [district] court, citing the § 3553(a) factors, determined that requiring [the defendant] to serve the remainder of his sentence would 'provide just punishment for the offense' and 'afford adequate deterrence to criminal conduct.'" *Id.*; *see Thompson*, 984 F.3d at 434-35 (observing that the courts that have granted compassionate release "largely have done so for defendants who had already served the lion's share of their sentences and presented multiple, severe, health concerns"). In the instant case, releasing Hughes after she has served only approximately 54 months of her 235-month sentence would similarly minimize the impact of her crime and the seriousness of her offense as well as fall short of providing just punishment and adequate deterrence to criminal conduct.

"Compassionate release is discretionary, not mandatory, and [may] be refused after weighing the sentencing factors of 18 U.S.C. § 3553(a)." *Chambliss*, 948 F.3d at 693; *see United States v. Gharib*, No. 21-40779, 2022 WL 1565352, at *1 (5th Cir. May 18, 2022). Where, as here, a prisoner has engaged in "severe" criminal conduct and has a significant criminal history, the district court has discretion to deny compassionate release under the circumstances. *Chambliss*, 948 F.3d at 693-94; *accord Gharib*, 2022 WL 1565352, at *1 (refusing to consider the defendant's contention that extraordinary and compelling reasons justified compassionate release due to the defendant's no longer being subject to the career offender enhancement when district court found that the § 3553(a) factors outweighed granting relief); *Keys*, 846 F. App'x at

276 (rejecting Defendant’s argument that the court gave too much weight to his criminal history and finding that “a mere disagreement with the court’s balancing of the § 3553(a) factors . . . is not a sufficient ground for reversal”). In view of the nature and circumstances of her offense of conviction, her criminal history, and her history of substance abuse, the court cannot conclude that Hughes’s early release from prison would afford adequate deterrence or protect the public, as she continues to pose a danger to other persons and to the community as a whole. Stated simply, Hughes’s acquiring skills in culinary arts, taking courses in weight management, stress management, and money management, achieving a healthy lifestyle, and learning how to crochet does not offset her long history of criminal conduct and substance abuse, much less justify her early release from prison.

III. Conclusion

In accordance with the foregoing analysis, Hughes’s Motion to Reduce Sentence (#1203) is DENIED.

SIGNED at Beaumont, Texas, this 6th day of July, 2022.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE